



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GROVER SELLERS  
ATTORNEY GENERAL

Honorable Conand Florence  
County Attorney  
Upshur County  
Gilmer, Texas

Dear Sir:

Opinion No. 0-6737

Re: Whether under the facts stated the Commissioners' Court or the County would be liable for money collected by the Justice of the Peace in forfeiture of cash bond after it had been turned in to the County Treasurer.

The material paragraphs from your letter of July 24, requesting an opinion of this department, are as follows:

"The Justice of the Peace of Precinct Number One, in and for Upshur County, Texas, on the 11th day of March, 1945, took from five defendants a cash bond in lieu of a bail bond, and at that time set said cases for trial and notified each of the defendants when said cases would be tried. After passing the cases for several times and resetting same for the 17th day of April, 1945, at which time none of the defendants nor their attorney appeared in Court, and after failing to appear the last time said cases were set down for trial, the Justice of the Peace declared a forfeiture of each of the cash bonds amounting to a total of \$72.50, and he did then deliver such sum of money to the County Treasurer of Upshur County, Texas, and said County Treasurer did place said sum of money in the Road and Bridge Fund of Upshur County, Texas. The Commissioners who compose the Commissioners Court of Upshur County, Texas, have been requested by an attorney, who is supposed to be representing the respective defendants in each of the cases, to pay him, the attorney, the amount of \$72.50. Said attorney has not filed a written request with the Commissioners Court for the payment of such sum of money to him, nor have any of the respective defendants requested or filed a written request with the Commissioners Court of Upshur County, Texas, for a refund of their money.

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"Is the Commissioners Court of Upshur County, Texas, liable for the \$72.50 individually, or in their official capacity, by reason of the acts of the Justice of the Peace in placing in the County Treasury of Upshur County, Texas, the said sum of \$72.50? Or would Upshur County be liable?"

Under the facts stated, we do not perceive any theory, and none has been advanced, upon which recovery may be had against either the County or the County Commissioners.

Very truly yours,

ATTORNEY GENERAL OF TEXAS

By

*Wm. J. R. King*  
Wm. J. R. King  
Assistant

RECEIVED AUG 30 1945  
*One Ready*

~~(Noting)~~ ATTORNEY GENERAL OF TEXAS

WJRK/JCP

